

**IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, ALABAMA**

**M.B. 1, a minor, and M.B. 2, a minor  
Who sue by and through their parents,  
Legal Representatives and Next Friends  
MOSES BUTCHER, JR. and CLAIR  
BUTCHER, his wife,**

**Plaintiffs,**

**V.**

**OUT-BACK SERVICES, INC.; CTW TRANSPORTATION SERVICES, INC.; CTW TRUCKING SERVICES; CTW TRUCKING, INC., d/b/a CTW TRUCKING SERVICES; GARY S. MCCALL; and Fictitious Defendants "A-Z", those persons or entities that contracted, loaded, unloaded the subject trailer, whose negligence, or other actionable conduct of which contributed to cause the injuries of M.B. 1 and M.B. 2**

**Defendants.**

## COMPLAINT

Plaintiffs, Moses Butcher, Jr., and Clair Butcher, his wife, as Parents, Legal Representatives and Next Friends of M.B. 1, a minor, and M.B. 2, a minor, file this Complaint for personal injuries against Defendants CTW Transportation Services, Inc., CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services, Out-Back Services, Inc., and Gary S. McCall and show the Court as follows:

## STATEMENT OF THE PARTIES

1. Plaintiff, M.B. 1, is a minor who sues by and through her parents, legal representatives and next friends, Moses Butcher, Jr. and Clair Butcher, his wife and is a citizen

of Montgomery County, in the State of Alabama.

2. Plaintiff, M.B. 2, is a minor who sues by and through her parents, legal representatives and next friends, Moses Butcher, Jr. and Clair Butcher, his wife and is a citizen of Montgomery County, in the State of Alabama.

3. Plaintiff, Moses Butcher, Jr., is over the age of majority and is a and is a citizen of Montgomery County, in the State of Alabama.

4. Plaintiff, Clair Butcher, is over the age of majority and is a citizen of Montgomery County, in the State of Alabama.

5. Defendant Outback Services, Inc.'s (hereinafter "Out-Back") principal place of business is in Merriam, Kansas, Johnson County and is therefore a citizen of the State of Kansas.

6. Defendant CTW Transportation Services, Inc.'s (hereinafter "CTW Transportation") principal place of business is in Kansas City, Missouri, Jackson County and is therefore a citizen of the State of Missouri.

7. Defendant CTW Trucking Services principle place of business is in Alabama and is therefore a citizen of the State of Alabama.

8. Defendant CTW Trucking, Inc. d/b/a CTW Trucking Services principle place of business is in Wadley, Alabama and is therefore a citizen of the State of Alabama.

9. Defendant Gary S. McCall (hereinafter "McCall") is over the age of majority and is a citizen of the State of Kansas.

10. Fictitious Defendants "A-Z" are those persons or entities that contracted, loaded, unloaded the subject trailer, whose negligence, or other actionable conduct of which contributed

to cause the injuries of M.B. 1 and M.B. 2.

**STATEMENT OF THE FACTS**

11. On or about November 30, 2016, Defendant McCall was operating an 18-wheel tractor trailer northbound in the left lane at the intersection of Troy Highway and Taylor Road, in Montgomery, Alabama, running a red light which constitutes negligence per se, and failure to maintain a proper lookout causing the truck he was driving to collide with the automobile driven by Archie Johnson, who was properly and lawfully operating his vehicle. Due to the collision, the vehicle driven by Mr. Johnson spun counter clockwise causing it to enter the southbound lanes of Troy Highway and strike another vehicle.

12. Defendant McCall was an employee or agent of Defendants CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services and Out-Back, and was operating a truck and trailer owned by Defendants CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services and/or Out-Back within the line and scope of his employment with CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services and Out-Back. At all times mentioned herein, Defendants CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services and Out-Back owned the vehicle being operated by Defendant McCall and had permitted and entrusted Defendant McCall to use said vehicle.

13. On or about November 30, 2016, Archie Johnson was operating the 2014 Chevrolet Silverado vehicle traveling southbound on Taylor Road turning south onto US 231 South in Montgomery County, Alabama.

14. Defendant McCall violated Alabama Rules of the Road and the Federal Motor Carrier Safety Regulations by failing to stop at a red light and yield the right of way, etcetera, which constitutes negligence per se. Defendant McCall was also negligent in operating the vehicle in that he failed to keep a proper lookout; failed to maintain proper control of his vehicle, failed to operate his vehicle in a same manner under the circumstances then existing; and failed to exercise ordinary care to avoid colliding with Mr. Johnson, the same constituting ordinary negligence.

15. As a proximate result of the collision, M.B. 1 and M.B. 2 both suffered severe and life threatening injuries.

16. This action is brought pursuant to *Code of Alabama*, §6-5-410.

**COUNT ONE**

**(Negligence)**

17. Plaintiffs reallege paragraphs 1 through 16 of the complaint as if fully set out here in.

18. At the aforesaid time and place, Defendant McCall negligently operated the 18-wheel tractor trailer he was driving causing him to crash into the vehicle operated by Archie Johnson then causing Mr. Johnson's vehicle to spin and crash into another vehicle.

19. As a proximate consequence of Defendant McCall's negligence, M.B. 1 and M.B. 2, both suffered severe and life threatening injuries.

Wherefore, Plaintiffs, Moses Butcher, Jr., as Father, Legal Representative and Next Friend of M.B. 1 and M.B. 2, demand judgment against Defendants in such amount as a jury may award and her costs of this action.

**COUNT TWO**

**(Wantonness)**

20. Plaintiffs reallege paragraphs 1 through 19 of the complaint as if fully set out herein.

21. At the aforesaid time and place, Defendant McCall wantonly operated his the 18-wheel tractor trailer so as to cause it to crash with the vehicle being driven by Archie Johnson.

22. As a proximate consequence of Defendant McCall's wantonness, M.B. 1 and M.B. 2, both suffered severe and life threatening injuries.

Wherefore, Plaintiffs, Moses Butcher, Jr., as Father, Legal Representative and Next Friend of M.B. 1 and M.B. 2, demand judgment against Defendants in such amount as a jury may award and her costs of this action.

**COUNT THREE**

**(Negligent and Wanton Hiring, Retention, Training, Supervision, Policies and Procedures, etc. – CTW Transportation; CTW Trucking Services; CTW Trucking, Inc. d/b/a CTW Trucking Services; Out-Back; and/or Fictitious Defendants)**

23. Plaintiffs incorporate herein the allegations of paragraphs 1 through 22 as if fully set out herein.

24. At all times, relevant to this lawsuit, CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services, Out-Back and all Fictitious Defendants were acting within the line and scope of their employment. Accordingly, CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services, Out-Back and all Fictitious Defendants are vicariously liable for the aforesaid negligent and wanton conduct of said defendants/employees.

25. CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services, Out-Back, and all Fictitious Defendants described herein, were negligent and wanton in that they: negligently and wantonly hired, retained and failed to enforce, train, supervise, monitor and implement policies and procedures that would prevent or allow Defendant McCall to operate its 2006 Kenworth tractor trailer in a manner causing him to crash into the vehicle being operated by Archie Johnson then causing Mr. Johnson's vehicle to spin and crash into another vehicle. CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services and Out-Back are in the trucking business which requires the hauling of cargo by trucks on federal, state, and county roads/highways. CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services, Out-Back, and all Fictitious Defendants had a duty to Plaintiffs and others to hire competent drivers. CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services, Out-Back, and all Fictitious Defendants also had a duty to ensure the competency of its drivers by properly training and supervising all drivers operating vehicles in the line and scope of employment with CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services, Out-Back, and all Fictitious Defendants. The acts and/or omissions of CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services, Out-Back, and all Fictitious Defendants constitute negligent and wanton hiring, retention, training, monitoring, and supervision.

26. As a result of CTW Transportation, CTW Trucking Services, CTW Trucking, Inc. d/b/a CTW Trucking Services, Out-Back, and Fictitious Defendants' negligent and wanton failure to ensure the competency of its drivers, enforce or implement reasonable safety policies

and procedures, hire and retain qualified drivers and to train and supervise its drivers regarding its policies and procedures, M.B. 1 and M.B. 2, both suffered severe and life threatening injuries.

WHEREFORE, Plaintiffs Moses Butcher, Jr., and Clair Butcher, his wife, as Parents, Legal Representatives and Next Friends of M.B. 1, and M.B. 2, demand judgment against Defendants CTW Transportation; CTW Trucking Services; CTW Trucking, Inc. d/b/a CTW Trucking Services; Out-Back, McCall, and Fictitious Defendants in such an amount of compensatory and punitive damages as a jury may deem reasonable, necessary, and proper, and the costs of this action.

/s/LaBarron N. Boone  
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